

FEDERAL ROOM

Before the
Federal Communications Commission
Washington, D.C. 20554

2001 MAR 15 A 11:59

In the Matter of)
)
Amendment of Section 73.202(b))
Table of Allotments.)
FM Broadcast Stations.)
(Avalon, Fountain Valley, Adelanto,)
Ridgecrest and Riverside, California))

MM Docket No. 99-329
RM-9701

FILED

REPORT AND ORDER (Proceeding Terminated)

Adopted: February 28, 2001

Released: March 9, 2001

By the Chief, Allocations Branch:

1. Before the Commission for consideration is a *Notice of Proposed Rule Making*¹ issued at the request of Amaturio Group of L.A., Ltd. ("petitioner"), licensee of Stations KLIT(FM), Avalon, California, KELT(FM), Riverside, California and KMLT, Thousand Oaks, California. The *Notice* sought comment on the following proposal: reallocation of Channel 224A from Avalon to Fountain Valley, as that community's first local aural transmission service, and modification of the station's authorization accordingly, as well as the reallocation of Channel 224A from Riverside to Adelanto, California, as that community's first local aural transmission service, and modification of that station's authorization accordingly. Additionally, to accommodate the proposal, the *Notice* proposed the substitution of Channel 224A for Channel 224B1 at Ridgecrest at a newly specified transmitter site, and modification of the authorization of Station KZIQ-FM, and also proposed a change in the reference coordinates of Station KMLT, Thousand Oaks, to avoid a short spacing to the proposed reallocation of Channel 224A to Fountain Valley, California.

2. Petitioner filed comments in support of its proposal, restating its commitment to file the necessary applications and proceed with construction. Adelman Communications, Inc, filed comments in support of the proposal. Petitioner filed reply comments. No counterproposals were received.

3. Petitioner seeks to invoke the provisions of Section 1.420(i) of the Commission's Rules which permits the modification of a station's authorization to specify a new community of license without affording other interested parties an opportunity to file competing expressions of interest.² As noted in the *Notice*, petitioner established that both proposed communities are incorporated and self-contained. As also noted in the *Notice*, both proposed reallocations are mutually exclusive with the present allotments of the present communities of license. The *Notice* also noted that petitioner stated that the licensee at Ridgecrest had consented to the requested downgrade at that community. In response to the *Notice*, petitioner provided

¹ 14 FCC Rcd 19397 (1999).

² See *Report and Order* in MM Docket No. 88-526 ("Change of Community R&O"), 4 FCC Rcd 4870 (1989), *recon. granted in part, MO&O* in MM Docket No. 88-526 ("Change of Community MO&O"), 5 FCC Rcd 7094 (1990).

a statement from the Ridgecrest licensee that it agreed to the required transmitter site change involved in this downgrade, and also included Amaturo's pledge to reimburse the Ridgecrest licensee for the reasonable costs of its downgrade and site change.

4. We agree with petitioner that the reallocations will result in a preferential arrangement of allotments because each will provide a first local aural transmission service to the communities of Fountain Valley and Adelanto without depriving either Avalon or Riverside of local service.³ In support of the proposal, petitioner showed that both Fountain Valley (1990 U.S. Census population 53,691 persons) and Adelanto (1990 U.S. Census population 8,517 persons) are communities for allotment purposes and that neither is part of an urbanized area or presented issues relative to the migration of service to an urbanized area.⁴ Further, petitioner states, and our Commission staff analysis confirms, that the requested reallocations will result in a net gain in 1.4 million persons in population served, will not create any white or gray areas, and the loss areas will continue to be well served.⁵

5. Channel 224A can be allotted to Fountain Valley, consistent with the minimum distance separation requirements of Section 73.207(b) and the principal community coverage requirements of Section 73.315(a) of the Commission's Rules at petitioner's requested site 9.9 kilometers (6.1 miles) south of the community.⁶ Channel 224A can be allotted to Adelanto, consistent with the minimum distance separation requirements of Section 73.207(b) and the principal community coverage requirements of Section 73.315(a) of the Commission's Rules at petitioner's requested site 8.9 kilometers (5.5 miles) west of the community.⁷ The reference coordinates of Channel 224A, Thousand Oaks can be revised consistent with the minimum distance separation requirements of Section 73.207(b) and the principal community coverage requirements of Section 73.315(a) of the Commission's Rules.⁸ The downgrade to Channel 224A at Ridgecrest can be accomplished, consistent with the minimum distance separation requirements of Section 73.207(b) and the principal community coverage requirements of Section 73.315(a) of the Commission's Rules at petitioner's requested site 1.5 kilometers (—miles) west of the community.⁹ Additionally, concurrence of the Mexican government has been obtained for the allotments at Fountain Valley and Adelanto.

6. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective April 23, 2001, the FM Table of Allotments,

³ As stated in the *Notice*, petitioner stated that Avalon will continue to receive local aural transmission service from Stations KISL(FM), Channel 204A and KBRT(AM). Riverside will continue to receive local aural transmission service from Stations KUCR(FM), Channel 202A, KSGN(FM), Channel 209A, KSSE(FM), Channel 248B and AM Stations KDIF and KPRO.

⁴ See *Notice* at 14 FCC Rcd 14399.

⁵ While petitioner states that 107 persons will lose a fifth service, our analysis does not bear this out. We determine that no underserved areas will result from this reallocation.

⁶ The coordinates for Channel 224A at Fountain Valley are 33-36-56 NL and 117-55-33 WL.

⁷ The coordinates for Channel 224A at Adelanto are 34-36-11 NL and 117-28-01 WL.

⁸ The reference coordinates for Channel 224A at Thousand Oaks are 34-13-05 NL and 118-56-42 WL.

⁹ The coordinates for Channel 224A at Ridgecrest are 35-37-27 NL and 117-41-10 WL.

Section 73.202(b) of the Commission's Rules, IS AMENDED, with respect to the community listed below, as follows:

<u>City</u>	<u>Channel No.</u>
Adelanto, California	224A
Fountain Valley, California	224A
Ridgecrest, California	224A, 285B1
Riverside, California	248B, 256B

7. IT IS ORDERED That the Secretary of the Commission shall send by Certified Mail Return Receipt Requested, a copy of this *Order* to the following:

Bradford D. Carey, Esq.
110 Veterans Blvd. Suite 300
Metairie, LA 7005
(Counsel to petitioner)

David Hunsaker, Esq.
100 Carpenter Dr., Suite 100
P.O. Box 217
Sterling, VA 20167-0217
(Counsel to Adelman Communications, Inc.)

8. IT IS FURTHER ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the licenses of Amaturio Group of L.A., Ltd., for Stations KLIT(FM), Avalon, California, and KELT(FM), Riverside, California ARE MODIFIED to specify operation on Channel 224A, at Fountain Valley and Adelanto, respectively, subject to the following conditions:

- (a) Within 90 days of the effective date of this *Order*, the licensee shall submit to the Commission a minor change application for a construction permit (Form 301), specifying the new facility;
- (b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620; and
- (c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's Rules.

9. IT IS FURTHER ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the license of Station KZIQ(FM), Ridgecrest, California, IS MODIFIED to specify operation on Channel 224A, in lieu of Channel 224B1, subject to the following conditions:

- (a) Within 90 days of the effective date of this *Order*, the licensee shall submit to the Commission a minor change application for a construction permit (Form 301), specifying the new facility;
- (b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620; and
- (c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's Rules.

10. Pursuant to Commission Rule Section 1.1104(1)(k) and (2)(k), any party seeking a change in community of license of an FM or television allotment or an upgrade of an existing FM allotment, if the request is granted, must submit a rule making fee when filing its application to implement the change in

community of license and/or upgrade. As a result of this proceeding, Amaturro Group of L.A., Ltd., is required to submit rule making fees in addition to the fees required for the applications to effectuate the changes of community from Avalon to Fountain Valley and from Ridgecrest to Adelanto.

11. IT IS FURTHER ORDERED That this proceeding IS TERMINATED.

12. For further information concerning this proceeding contact Victoria M. McCauley, (202) 418-2180. Questions concerning the application filing process should be addressed to the Audio Services Division at (202) 418-2700.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau